

STANDBY BOND PURCHASE AGREEMENT

dated as of

December 23, 2002

between

THE COMMONWEALTH OF MASSACHUSETTS

and




relating to

\$249,760,000

**THE COMMONWEALTH OF MASSACHUSETTS
GENERAL OBLIGATION REFUNDING BONDS
(VARIABLE RATE DEMAND BONDS)**

1998 SERIES A

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STANDBY BOND PURCHASE AGREEMENT

This STANDBY BOND PURCHASE AGREEMENT, dated as of December 23, 2002, is entered into by and between THE COMMONWEALTH OF MASSACHUSETTS (the "Commonwealth"), and [REDACTED] (the "Bank").

RECITALS

WHEREAS, the Commonwealth has previously issued \$249,760,000 in aggregate principal amount of its General Obligation Refunding Bonds (Variable Rate Demand Bonds), 1998 Series A (the "Bonds"); and

WHEREAS, the Bonds may bear interest at variable or fixed rates during periods to be selected by the Commonwealth from time to time and, during various interest rate modes, will be subject to optional tender for purchase and mandatory tender for purchase at times specified in the Bonds; and

WHEREAS, the Commonwealth has determined to execute this Agreement in order to provide a source of funding for the purchase of Bonds which have not been remarketed by UBS PaineWebber Incorporated (the "Remarketing Agent"); and

WHEREAS, the Commonwealth entered into a Standby Bond Purchase Agreement (the "Prior Agreement") with [REDACTED] acting through its New York Branch ([REDACTED]), dated as of September 17, 1998, as amended, to provide for the purchase, from time to time, by [REDACTED] of tendered or deemed tendered Bonds that were not remarketed; and

WHEREAS, the Commonwealth has determined that it is in its best interests of the holders of the Bonds to substitute the Prior Agreement with this Agreement and to provide for the purchase by the Bank on the terms and conditions specified herein of tendered or deemed tendered Bonds which cannot be remarketed; and

WHEREAS, the Bank is willing to purchase Bonds tendered by the holders thereof, upon the terms and conditions set forth in this Agreement on or prior to the last day of the Commitment Period (as hereinafter defined);

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

SECTION 1.1. *Definitions.* The following terms, as used herein, have the following meanings:

"Agreement" means this Standby Bond Purchase Agreement, including any amendment hereto.

"Alternate Liquidity Facility" has the meaning set forth in the Bonds.

"Authorized Denomination" means \$100,000 or any integral multiple of \$5,000 in excess thereof.

"Available Commitment" as of any day means the sum of the Available Principal Commitment and the Available Interest Commitment, in each case, as of such day.

"Available Interest Commitment" initially means \$3,695,079.45 representing an amount equal to forty-five (45) days' interest on the initial Available Principal Commitment based upon an assumed per annum rate of interest equal to 12% (based on the actual days elapsed in a year of 365/366 days, as applicable) and, thereafter, means such initial amount adjusted from time to time as follows: (a) downward by an amount that bears the same proportion to such initial amount as the amount of any reduction in the Available Principal Commitment in accordance with clause (a) or (b) of the definition herein of "Available Principal Commitment" bears to the initial Available Principal Commitment and (b) upward by an amount that bears the same proportion to such initial amount as the amount of any increase in the Available Principal Commitment in accordance with clause (c) of the definition herein of "Available Principal Commitment" bears to the initial Available Principal Commitment. Any adjustments to the Available Interest Commitment shall occur simultaneously with any corresponding adjustments to the Available Principal Commitment.

"Available Principal Commitment" initially means \$249,760,000, representing an amount equal to the original aggregate principal amount of the Bonds. The Available Principal Commitment shall be adjusted from time to time as follows.

(a) downward by the principal amount of Bonds redeemed, paid or converted to the Fixed Rate;

(b) downward by the principal amount of any Eligible Bonds purchased by the Bank pursuant to Section 2.1 hereof; and

(c) upward by the principal amount of any Eligible Bonds theretofore purchased by the Bank pursuant to Section 2.1 hereof which are remarketed by the Remarketing Agent and for which the Bank has received immediately available funds equal to the par amount thereof;

provided, however, that the sum of (i) the Available Principal Commitment *plus* (ii) the aggregate principal amount of Bank Bonds shall never exceed \$249,760,000. Any adjustments to the Available Principal Commitment pursuant to clauses (a), (b) or (c) hereof shall occur simultaneously with the occurrence of the events described in such clauses.

"Bank" has the meaning set forth in the introductory paragraph of this Agreement.

"Bank Bondholder" means the Bank (but only in its capacity as owner of Bank Bonds pursuant to this Agreement) and any other Person to whom the Bank has sold Bank Bonds pursuant to Section 2.4 or 9.4 hereof.

"Bank Bonds" means any Bonds purchased by the Bank pursuant to Section 2.1 hereof and shall include any Bonds held by a Participant pursuant to Section 9.4 hereof.

"Bank Rate" means, in connection with each Liquidity Advance and Term Loan, a rate of interest equal to the following:

(a) from the Purchase Date through and including the first to occur of the final day of the Commitment Period and the forty-fifth (45th) calendar day immediately following the Purchase Date, the Base Rate;

(b) from the forty-sixth (46th) day following the Purchase Date through and including the first to occur of the final day of the Commitment Period and the ninetieth (90th) calendar day immediately following the Purchase Date, the Base Rate plus 0.50% per annum; and

(c) from the ninety-first (91st) day after the Purchase Date or the final day of the Commitment Period, whichever occurs first (and assuming the conditions for the creation of a Term Loan have been satisfied pursuant to Section 2.2(f)), until the date said Term Loan is repaid in full, the Base Rate plus 1.00% per annum;

provided, however, that upon and following the occurrence of an Event of Default hereunder, each Liquidity Advance or Term Loan, as the case may be, shall bear interest in an amount equal to the Default Rate; *provided further, however*, that at no time shall the Bank Rate exceed the Maximum Rate.

"Base Rate" means the higher of: (a) the Prime Rate and (b) the sum of the Federal Funds Rate plus 1.00% per annum; *provided, however*, that the Base Rate shall be increased by (i) .25% per annum from and commencing on the date that Moody's, Fitch or S&P shall have publicly announced a Rating Downgrade; and (ii) 1.00% per annum from and commencing on the date that the Commonwealth Rating shall have been suspended or withdrawn by Moody's, Fitch or S&P; *provided further, however*, that the Base Rate will be reduced by the amounts described above on such date that Moody's, Fitch or S&P, as the case may be, shall have publicly announced the re-establishment of the Commonwealth Rating to that level which was applicable thereto prior to such Rating Downgrade, suspension or withdrawal, as the case may be. Each change in the Base Rate shall take effect as of the time of such change in the Prime Rate or the Federal Funds Rate, as the case may be.

"Bond Register" means the records maintained on behalf of the Commonwealth containing the name and mailing address of each owner of the Bonds or the nominee of such owner, and such other information as the Bond Registrar shall determine.

"Bond Counsel" has the meaning set forth in Section 4.1(a)(iii) hereof.

"Bond Registrar" means, initially, the Commonwealth, or any bank or banks, if any, appointed by the Commonwealth for the purposes of registering the Bonds, maintaining the Bond Register, effecting transfers of ownership of the Bonds and paying interest on the Bonds.

"Bonds" has the meaning set forth in the first recital of this Agreement.

"Book Entry Bond" means the Bonds so long as the book entry system with DTC is used for determining beneficial ownership of the Bonds.

"Business Day" means a day except a Saturday, Sunday, any holiday or other day on which the business offices of the Commonwealth of Massachusetts are closed, any other day on which banks in New York, New York or Boston, Massachusetts are authorized or required to remain closed or on which the New York Stock Exchange is closed.

"[REDACTED]" has the meaning assigned to such term in the fourth WHEREAS clause to this Agreement.

"Commitment Fee" has the meaning set forth in Section 3.1 hereof.

"Commitment Period" means, with respect to the Bonds, the period from the Effective Date to and including the close of business on the earliest of (a) the Expiration Date; (b) the date on which no Bonds are otherwise Outstanding; (c) the date on which the Available Commitment shall be terminated in its entirety and the Bank shall no longer be obligated to purchase Bonds pursuant to Section 7.2 hereof; (d) the date on which an Immediate Termination Event occurs; (e) the fifth Business Day next succeeding the date on which the Bonds have been converted to a Fixed Rate; and (f) the date on which an Alternate Liquidity Facility becomes effective in accordance with the terms of the Bonds.

"Commonwealth Rating" means the long-term credit rating assigned by each Rating Agency to the Bonds or any other unenhanced, long term general obligation debt of the Commonwealth.

"Conversion Date" means the date on which all of the Bonds have been converted to bear interest at the Fixed Rate.

"Daily Rate" has the meaning set forth in the Bonds.

"Default" means any condition or event which constitutes an Event of Default or which, with the giving of notice or lapse of time or both would, unless cured or waived, become an Event of Default.

"Default Rate" means a rate per annum equal to the Base Rate *plus* 2.0% per annum.

"Differential Interest Amount" means the excess of (a) interest which has accrued and could actually be paid on Bank Bonds at the Bank Rate, up to but excluding the Sale Date, over (b) the interest accrued on such Bonds received by the Bondowners as part of the Sale Price.

"DTC" means The Depository Trust Company.

"Effective Date" has the meaning set forth in Section 4.1 hereof.

"Eligible Bonds" means any Bonds other than Bank Bonds, Bonds owned by or on behalf of the Commonwealth or Bonds bearing interest at a Fixed Rate.

"Event of Default" has the meaning set forth in Section 7.1 hereof.

"Expiration Date" means the date on which this Agreement is to expire pursuant to its terms, initially 5:00 p.m. (New York time) on December 21, 2007, including any extension of such date pursuant to Section 2.6 hereof and, if any such date is not a Business Day, the next preceding Business Day, but not including the date of any early termination of the Available Commitment and of the Bank's obligation to purchase Bonds pursuant to Section 7.2 or Section 8.1 hereof, as the case may be.

"Federal Funds Rate" means, for any day, the rate of interest per annum as determined by the Bank at which overnight Federal funds are offered to the Bank from time to time in the interbank market, with any change in such rate to become effective as to the Commonwealth on the date of any change in such rate. Each determination of the Federal Funds Rate by the Bank shall be deemed conclusive and binding on the Commonwealth absent manifest error.

"Fitch" means Fitch, Inc., a corporation organized and existing under the laws of the State of Delaware, its successors and their assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, "Fitch" shall be deemed to refer to any other nationally recognized securities rating agency (other than S&P or Moody's) designated by the Commonwealth.

"Fixed Rate" has the meaning set forth in the Bonds.

"Immediate Termination Event" has the meaning set forth in Section 7.2(a) hereof.

"Indemnified Party" has the meaning set forth in Section 3.6 hereof.

"Interest Component" has the meaning set forth in Section 2.1 hereof.

"Interest Payment Date" has the meaning set forth in the Bonds.

"Liquidity Advance" or **"Liquidity Advances"** has the meaning set forth in Section 2.2(e) hereof.

"Mandatory Purchase Date" means any date on which the Bonds are subject to mandatory purchase in accordance with their terms.

"Maximum Rate" means the maximum interest rate permitted by applicable law.

"Moody's" means Moody's Investors Service, Inc., a corporation organized and existing under the laws of the State of Delaware, its successors and their assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, "Moody's" shall be deemed to refer to any other nationally recognized securities rating agency (other than S&P or Fitch) designated by the Commonwealth.

"Notice of Bank Purchase" means (a) in the case of a purchase of a Bond pursuant to an optional tender by the Owner thereof, a notice in the form of Exhibit A attached hereto and incorporated herein by this reference, or (b) in the case of a purchase of a Bond on a Mandatory

Purchase Date, a notice in the form of Exhibit B attached hereto and incorporated herein by this reference.

"Notice of Termination" has the meaning set forth in Section 7.2(d) hereof.

"Obligations" means all amounts owed by the Commonwealth to the Bank under this Agreement and the Bank Bonds.

"Official Statement" means the Official Statement of the Commonwealth, dated September 2, 1998 (including any documents incorporated therein by reference and any amendment or supplement thereto), relating to the Bonds.

"Outstanding" when used with reference to the Bonds, means all Bonds, except:

- (a) Bonds canceled by the Bond Registrar or surrendered to the Bond Registrar for cancellation;
- (b) Bonds in lieu of or in substitution for which replacement Bonds have been executed by the Commonwealth and delivered by the Bond Registrar; and
- (c) Bonds (or any portion thereof) paid or for the payment or redemption of which there shall be set aside and held in trust either:
 - (i) moneys in an amount sufficient to pay when due the principal or redemption price thereof, together with all accrued interest;
 - (ii) direct, noncallable general obligations of, or obligations the timely payment of the principal of and interest on which are unconditionally guaranteed by, the United States of America, in such principal amounts, of such maturities, bearing such interest and otherwise having such terms and qualifications, as are necessary to provide moneys (whether as principal or interest) in an amount sufficient to pay when due the principal or redemption price thereof, together with all accrued interest; or
 - (iii) any combination of (i) or (ii) above;

and, if such Bond (or portion thereof) is to be redeemed, for which notice of redemption has been given as provided in such Bond, or provision has been made for the giving of such notice.

Notwithstanding the foregoing, Bank Bonds shall remain Outstanding until the Bank is paid all amounts due on such Bonds.

"Owner" means the owner of a Bond as shown on the Bond Register maintained by the Bond Registrar.

"Overlap Agreement" means that agreement by and among the Commonwealth, the Tender Agent and the Bank, dated the Effective Date, relating to the purchase and transfer of tendered but unremarketed Bonds, if any, purchased from and after the Effective Date through the termination date of the Prior Agreement.

"Participant" has the meaning set forth in Section 9.4 hereof.

"Person" means an individual, a corporation, a partnership, an association, a business trust or any other entity or organization, including a government or political subdivision or an agency or instrumentality thereof.

"Prime Rate" means, on any given day, the per annum rate of interest for such day announced by the Bank from time to time as its base rate or equivalent rate for United States dollar denominated loans, with any change in such prime rate or equivalent to be effective on the date of such change, it being understood that such rate may not be the best or lowest rate offered by the Bank. Each determination of the Prime Rate by the Bank shall be deemed conclusive and binding on the Bank and the Commonwealth absent manifest error. Any change in the Prime Rate shall take effect on the date specified in the announcement of such change.

"Prior Agreement" has the meaning assigned to such term in the fourth WHEREAS clause to this Agreement.

"Purchase Date" means any Business Day during the Commitment Period with respect to which the Bank has received a Notice of Bank Purchase pursuant to Section 2.2 hereof.

"Purchase Notice" has the meaning set forth in Section 2.4(a) hereof.

"Purchase Price" means, with respect to any Bond or portion thereof, the principal amount thereof plus accrued interest, if any, to the Purchase Date, in each case, without premium.

"Rating Agency" means Moody's, S&P or Fitch.

"Rating Downgrade" shall mean each downgrade of the Commonwealth Rating assigned by Fitch, Moody's or S&P with respect to the Bonds or any other unenhanced, long term general obligation debt of the Commonwealth (e.g., a reduction from "AA-" to "A+" would constitute a Rating Downgrade; a reduction from "AA-" to "A" would constitute two Rating Downgrades).

"Related Documents" means the Bonds, the Remarketing Agreement, the Official Statement, the Overlap Agreement and the Tender Agent Agreement and all agreements, certificates and other instruments executed and delivered by any Person in connection with the initial delivery of the Bonds.

"Remarketing Agent" means each or any remarketing agent, as the context may require, at the time serving as such under a Remarketing Agreement, initially UBS PaineWebber Incorporated.

"Remarketing Agreement" means an agreement of that name between the Commonwealth and the Remarketing Agent, as amended from time to time with the consent of the Bank, which consent shall not be unreasonably withheld.

"Replacement Bank" means the issuer of an Alternate Liquidity Facility.

"S&P" means Standard & Poor's Ratings Service, a division of McGraw-Hill Corporation, its successors and their assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, "S&P" shall be deemed to refer to any other nationally recognized securities rating agency (other than Moody's or Fitch) designated by the Commonwealth.

"Sale Date" has the meaning specified in Section 2.4(a) hereof.

"Sale Price" has the meaning specified in Section 2.4(a) hereof.

"Series B Bonds" has the meaning set forth in the Bonds.

"Special Counsel" has the meaning specified in Section 3.4 hereof.

"Substitution Date" means the date on which an Alternate Liquidity Facility is to be substituted for this Agreement.

"Suspension Event" means an Event of Default described in Section 7.1(g)(ii) hereof or a Default described in Section 7.1(h) hereof, as and to the extent provided in Section 7.2(b) and (c), respectively.

"Taxes" has the meaning set forth in Section 3.3(b) hereof.

"Tender Agent" means the tender agent serving as such under the Tender Agent Agreement, initially State Street Bank and Trust Company.

"Tender Agent Agreement" means the Tender Agent Agreement, dated as of September 17, 1998, between the Commonwealth and the Tender Agent, as the same may be amended or supplemented, from time to time, including any replacement therefor.

"Term Loan" means a Liquidity Advance which shall not have been fully reimbursed by the Commonwealth within ninety (90) days of the related Purchase Date.

"Term Loan Period" means the period commencing on the first to occur of (a) the ninety-first (91st) day following the related Purchase Date and (b) the final day of the Commitment Period, and ending on the fifth (5th) anniversary of the related Purchase Date of the related Bank Bond but in no event later than the fifth (5th) anniversary of the Expiration Date, except as otherwise provided herein.

"Toronto-Dominion Standby Agreement" means the Standby Bond Purchase Agreement, dated as of September 17, 1998, between the Commonwealth and The Toronto-Dominion Bank,

acting through its Houston Agency, as the same may be amended and supplemented from time to time, including any "Alternate Liquidity Facility" therefor and as defined therein.

"*Weekly Rate*" has the meaning set forth in the Bonds.

SECTION 1.2. *Incorporation of Certain Definitions by Reference.* Each capitalized term used herein and not otherwise defined herein shall have the meaning provided therefor in the Bonds.

SECTION 1.3. *Principles of Construction.* In this Agreement, words importing any gender include the other gender; references to statutes are to be construed as including all statutory provisions consolidating, amending or replacing the statute referred to; references to agreements and other contractual instruments shall be deemed to include all subsequent amendments and other modifications and supplements thereto, but only to the extent such amendments, modifications and supplements are not prohibited by this Agreement; references to Persons include their respective successors and assigns; references to Articles, Sections and Exhibits are to Articles, Sections and Exhibits in or to this Agreement unless otherwise specified; and references to the words "hereof," "hereto," "herein" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement.

All accounting terms not specifically defined herein shall be construed in accordance with generally accepted accounting principles in the United States.

ARTICLE II

COMMITMENT TO PURCHASE BONDS

SECTION 2.1. *Commitment to Purchase Bonds.* The Bank agrees, on the terms and conditions contained in this Agreement, including Section 4.2 hereof, to extend credit to the Commonwealth by purchasing at the Purchase Price with its own funds (a) all Eligible Bonds tendered or deemed tendered from time to time during the Commitment Period pursuant to optional tenders by Owners in accordance with the terms of the Bonds and (b) all Eligible Bonds required to be purchased on a Mandatory Purchase Date during the Commitment Period in accordance with the terms of the Bonds, in each case, to the extent such Eligible Bonds are not remarketed in accordance with the Remarketing Agreement. The aggregate principal amount (or portion thereof) of any Bond purchased on any Purchase Date shall be an Authorized Denomination and, in any case, the aggregate principal amount of all Bonds purchased on any Purchase Date shall not exceed the Available Principal Commitment on such date. The portion of the Purchase Price corresponding to accrued interest, if any, on the Bonds purchased on any Purchase Date (the "*Interest Component*") shall not in the aggregate exceed the lesser of (i) the Available Interest Commitment with respect to such Bonds on such date and (ii) the actual amount of interest accrued and unpaid on such Bonds to but excluding such date. The Bank shall have no obligation to make any payment with respect to the accrued interest, if any, due on the Bonds on any Purchase Date (including any Bonds which are to become Bank Bonds on such

Purchase Date) which is an Interest Payment Date that would have occurred without regard to the Purchase Date.

Any Bond purchased by the Bank pursuant to this Section 2.1 shall thereupon become a Bank Bond and shall, from the date of such purchase and while it is a Bank Bond, bear interest at the Bank Rate and have other characteristics all as set forth in the Bonds.

SECTION 2.2. Method of Purchasing. (a) Subject to the terms and conditions of this Agreement, on any Business Day during the Commitment Period, the Bank shall pay the Purchase Price of Eligible Bonds tendered or deemed tendered in accordance with their terms upon receipt by the Bank on or before 1:00 p.m., New York time, on such Business Day of a written Notice of Bank Purchase in the form of Exhibit A or Exhibit B, as the case may be, completed on the Tender Agent's letterhead and signed by one purporting to be the Tender Agent's duly authorized signatory and upon satisfaction of the conditions provided in Section 4.2 hereof. Presentation of the Notice of Bank Purchase shall be made (i) at the Bank's address set forth on Exhibit D or at any other place as shall be designated by the Bank by written notice delivered to the Tender Agent or (ii) in the form of a telecopy sent to the Bank's telecopy number and to the attention of the person set forth in Exhibit D, or such other number as shall be designated by the Bank by written notice delivered to the Tender Agent. Any such presentation of a telecopy shall be confirmed by telephone and delivery of the Notice of Bank Purchase immediately following any telecopy presentation, but the failure to confirm the telecopy will not affect the validity of any such communication by telecopy.

(b) If the Bank receives a Notice of Bank Purchase (i) in the form of Exhibit A in connection with an optional tender of Eligible Bonds, or (ii) in the form of Exhibit B in connection with a mandatory purchase of Eligible Bonds, at or before 1:00 p.m., New York time, on a Business Day during the Commitment Period, and subject to satisfaction of the conditions provided in Section 4.2 as of such Purchase Date, the Bank will transfer to the Tender Agent on such Purchase Date on or before 3:30 p.m., New York time, in immediately available funds, an amount equal to the aggregate Purchase Price of such Eligible Bonds.

(c) If the Bank receives a Notice of Bank Purchase after 1:00 p.m., New York time, on a Purchase Date or Mandatory Purchase Date from the Tender Agent, the Bank, subject to satisfaction of the conditions provided in Section 4.2, will transfer to the Tender Agent at or before 1:00 p.m., New York time, on the Business Day immediately following the Purchase Date or Mandatory Purchase Date specified in such notice, in immediately available funds, an amount equal to the aggregate Purchase Price of Eligible Bonds tendered or deemed tendered on such Purchase Date or Mandatory Purchase Date.

(d) The Commonwealth agrees that the Bank shall have no responsibility for, nor incur any liability in respect of, any act, or any failure to act, by the Tender Agent which results in the failure of the Tender Agent to effect the purchase of Bonds for the account of the Bank with funds paid by the Bank pursuant to this Section 2.2 and as set forth in the Bonds. The parties hereto understand and agree that the Bank's only responsibility under this Agreement is to purchase Bonds in accordance with this Agreement and the Bonds and perform certain other administrative duties, and the parties intend that neither the Bank nor its directors, officers, employees or duly authorized agents shall be liable or responsible to third parties for any action

or inaction under this Agreement other than actions or inactions of the Bank constituting a grossly negligent or willful failure to purchase Bonds in accordance with the terms of this Agreement.

(e) Each payment by the Bank of the Purchase Price of any Bonds shall constitute an advance to the Commonwealth (each such advance being a "*Liquidity Advance*" and collectively the "*Liquidity Advances*"). Each Liquidity Advance, and the accrued interest thereon, shall be paid by or on behalf of the Commonwealth on the earliest to occur of (i) the date on which any Bank Bonds purchased with funds disbursed in connection with such Liquidity Advance are redeemed, defeased, accelerated or otherwise repaid in accordance with their terms, (ii) the date of the remarketing of the Bank Bonds relating to such Liquidity Advance, (iii) the date on which any Bank Bonds purchased with the funds disbursed in connection with such Liquidity Advance mature in accordance with their terms, (iv) the Substitution Date, (v) the Conversion Date, (vi) subject to satisfaction of the conditions set forth in Section 2.2(f) for conversion to a Term Loan, the ninetieth (90th) day immediately following the related Purchase Date, and (vii) the end of the Term Loan Period, if applicable. The Bank shall be under no obligation to make any Liquidity Advance unless the conditions set forth in Section 4.2 hereof have been satisfied. The Commonwealth may prepay any Liquidity Advance as provided in Section 2.2(g) below. The Bank shall use its best efforts to notify the Commonwealth of the amount of accrued interest on each Liquidity Advance on the Business Day prior to the date on which such amount is due.

(f) Subject to the payment of any Liquidity Advance representing a Bank Bond as provided in Section 2.2(e) hereof, each Liquidity Advance will automatically constitute a Term Loan beginning on the earlier to occur of the ninety-first (91st) day after the related Purchase Date and the last day of the Commitment Period; *provided* that on the commencement date for such Term Loan, (i) the representations and warranties contained in Article V of this Agreement and in each other Related Document and certificate or other writing delivered to the Bank pursuant hereto in connection with the transactions contemplated by this Agreement shall be true and correct as though made on and as of such date, except to the extent a representation or warranty relates specifically to an earlier date (in which case such representation and warranty shall be true and correct as of such date); (ii) no Event of Default shall have occurred and be continuing; and (iii) the Commitment Period shall not have expired. On the commencement date of each Term Loan Period, the Commonwealth shall be deemed to have represented and warranted to the Bank that the conditions set forth in (i) and (ii) of the immediately preceding sentence have been satisfied. Each Term Loan, and the accrued interest thereon, shall be paid by or on behalf of the Commonwealth upon the occurrence of any of the items set forth in Section 2.2(e)(i) through and including Section 2.2 (e)(v) above and shall, in addition thereto, be repaid by or on behalf of the Commonwealth in ten (10) equal semiannual installments, the first of which will occur on the one hundred eightieth (180th) day immediately following the related Purchase Date, with each subsequent installment being payable, together with interest accrued thereon, one hundred eighty (180) days thereafter, and with the final installment being due and payable no later than the fifth anniversary of the related Purchase Date. The Commonwealth may prepay any Term Loan as provided in Section 2.2(g) below. The Bank shall use its best efforts to notify the Commonwealth of the amount of accrued interest on each Term Loan on the Business Day prior to the date on which such amount is due.

(g) Any Liquidity Advance or Term Loan may be prepaid by the Commonwealth, without premium or penalty, upon one (1) Business Day's prior written, electronic or telephonic notice to the Bank (which notice if electronic or telephonic shall be promptly confirmed in writing), in whole or in part but, if in part, in a minimum aggregate principal amount of \$500,000 and integral multiples of \$100,000 in excess thereof.

SECTION 2.3. *Reduction of Commitment; Termination; Substitution.* (a) *Reduction.* (i) Upon any redemption, repayment or other payment of less than all of the principal amount of the Bonds (other than Bank Bonds) so that such Bonds shall cease to be Outstanding, the aggregate Available Principal Commitment shall automatically be reduced by the principal amount of such Bonds so redeemed, repaid or otherwise deemed paid, as the case may be, or (ii) upon the close of business on the Conversion Date, the aggregate Available Principal Commitment shall automatically be reduced to zero, and in the case of either (i) or (ii), the Available Interest Commitment shall also be simultaneously reduced as provided in the definition thereof in Section 1.1 hereof; *provided, however*, that in the event any action described in clause (i) or (ii) above which results in a reduction of the Available Commitment to zero, all Obligations, including without limitation, all principal and interest evidenced by Bank Bonds and all amounts payable under Article III hereof, shall be paid to the Bank at or prior to the time of said reduction. The Commonwealth shall provide, or cause to be provided, to the Bank written notice of any proposed action described in clause (i) or (ii) above simultaneously with the Tender Agent being provided notice of such proposed action.

(b) *Voluntary Termination.* Upon thirty (30) days' written notice to the Bank, the Commonwealth may replace this Agreement or terminate this Agreement at any time following the first anniversary of the Effective Date and, prior to the first anniversary of the Effective Date, (i) if the Bonds are then rated by Moody's, Moody's shall have withdrawn or lowered the Bank's short-term rating below "VMIG-1", if the Bonds are then rated by S&P, S&P shall have withdrawn or lowered the Bank's short-term rating below "A-1+", or if the Bonds are then rated by Fitch, Fitch shall have withdrawn or lowered the Bank's short-term rating below "F1+" or (ii) if the Bank requests additional amounts from the Commonwealth pursuant to Section 3.2 as a result of conditions or events that are unique to the Bank's country of origin or (iii) the Bank shall have rejected (or been deemed to have rejected) the Commonwealth's request for an extension pursuant to Section 2.6 hereof; *provided, however*, (A) upon any termination of this Agreement prior to the first anniversary of the Effective Date other than for a reason set forth in clause (i), (ii) or (iii) hereof, the Commonwealth shall pay or cause to be paid a termination fee to the Bank in an amount equal to .10% of the Available Commitment in effect on the date of such termination and (B) regardless of whether a termination fee is payable as set forth in (A) above, the Commonwealth shall pay or cause to be paid all Obligations, including without limitation, all principal and interest evidenced by Bank Bonds and all amounts payable under Article III hereof, at or prior to the time of termination. The Commonwealth shall comply with the requirements of the Banks with respect to terminating this Agreement.

(c) *Alternate Liquidity Facility.* Upon compliance with the conditions of the Bonds regarding delivery of an Alternate Liquidity Facility and the payment by the Commonwealth of all Obligations due hereunder, the Tender Agent shall, provided the Bank is neither holding or required to acquire any Bonds, terminate this Agreement by giving the Bank (after five (5) days have elapsed since the satisfaction of the foregoing conditions) notice in writing to such effect;

provided, however, that in the case of the delivery of an Alternate Liquidity Facility: (i) the Replacement Bank shall agree, in a manner acceptable to the Bank, to purchase on the Substitution Date any Bank Bonds, not otherwise remarketed, held by or on behalf of a Bank Bondholder at the Purchase Price, and (ii) on the Substitution Date, the Commonwealth and/or such Replacement Bank shall pay all other Obligations owing to the Bank hereunder (including Section 3.5 hereof). The Available Commitment shall automatically terminate on the expiration of the Commitment Period.

(d) Except as specifically provided in this Section 2.3, the Commonwealth shall have no right to reduce or terminate the Available Commitment.

SECTION 2.4. Sale of Bank Bonds. (a) *Right to Sell Bank Bonds.* The Bank shall not have the right to sell Bank Bonds to any Person other than: (i) Participants, (ii) the Remarketing Agent, (iii) institutional investors and (iv) the Replacement Bank or their respective designees, provided that only Bank Bonds sold to Participants, institutional investors or the Replacement Bank shall bear interest at the Bank Rate. Bonds bearing interest at the Bank Rate and held by any Bank Bondholder may not be tendered for purchase under this Agreement. The Bank agrees to notify the Commonwealth, the Tender Agent and the Remarketing Agent promptly of any such sale (other than a sale made pursuant to Section 2.4(b)) and, if such Bank Bond is a Book Entry Bond, specifying the account at DTC to which such Bank Bond is credited; and to notify the transferee in writing that such Bond is no longer an Eligible Bond so long as it remains a Bank Bond and that there may not be a short-term investment rating assigned to such Bond so long as it remains a Bank Bond. Any Bank Bondholder purchasing a Bank Bond from the Bank or another Bank Bondholder shall be deemed to have agreed not to sell such Bank Bond to any Person except to the parties listed in the first sentence of this paragraph (a) and the Bank.

(b) *Sales by Remarketing Agent.* The Bank and each other Bank Bondholder, by the acceptance by each of a Bank Bond, hereby authorize the Remarketing Agent to sell Bank Bonds purchased by the Bank pursuant to Section 2.2 above on behalf of the Bank or such Bank Bondholder and in accordance with applicable securities law at a price equal to the principal amount thereof plus unpaid accrued interest thereon to but excluding the date such Bank Bonds are to be sold (the "*Sale Date*") pursuant to this Section 2.4(b) at the interest rate to be borne by the Bonds after such sale (the "*Sale Price*"); *provided, that neither the Bank nor any Bank Bondholder shall have any obligation to deliver Bank Bonds to the Remarketing Agent or sell such Bank Bonds unless the Bank or said Bank Bondholder has received, on the Sale Date, any additional amount due as Differential Interest Amount and any amount due pursuant to Section 3.5(b) hereof. The Bank agrees to deliver or cause to be delivered and, by its acceptance of a Bank Bond, each other Bank Bondholder agrees to deliver or cause to be delivered (but only upon receipt by the Bank or such other Bank Bondholder of immediately available funds in U.S. Dollars in the amount of the Sale Price plus any amount due pursuant to Section 3.5 hereof) to the Tender Agent each certificate representing a Bank Bond sold by it pursuant to this Section 2.4(b), including without limitation, certificates representing Bank Bonds which are deemed to have been delivered in accordance with the provisions of the Bonds (or, in the case of Bank Bonds which are Book Entry Bonds, shall cause the beneficial ownership thereof to be credited to the account of the Remarketing Agent at DTC).*

(c) *Right to Retain Bonds.* (i) Notwithstanding the foregoing or anything else contained in this Agreement, the Bank and each other Bank Bondholder shall have the right, by not less than two (2) Business Days' prior written notice to the Remarketing Agent, to elect not to sell the Bank Bonds or any portion thereof pursuant to Section 2.4(b). In such event, the Tender Agent shall notify the Commonwealth, the Remarketing Agent, the Bank and such Bank Bondholder that, as of the Sale Date, such Bond or Bonds shall no longer constitute Bank Bonds and such Bonds shall be deemed to have been remarketed and the Available Commitment shall be appropriately increased.

(ii) After any sale of Bank Bonds by the Remarketing Agent pursuant to Section 2.4(b) and payment to the applicable Bank Bondholder of the outstanding principal and interest accrued on the Bank Bonds so sold (including interest accrued at the Bank Rate), or any election by the Bank or a Bank Bondholder not to sell such Bank Bonds or any portion thereof through the Remarketing Agent pursuant to Section 2.4(b), such Bank Bonds so sold or as to which such election is made shall from such Sale Date or upon such election cease to bear interest at the Bank Rate and shall bear the interest at the rate for Bonds other than Bank Bonds established by the Remarketing Agent; *provided*, that if such Bank Bonds are retained by the Bank or any Bank Bondholder, any amount due in connection therewith pursuant to Section 3.5 hereof shall continue to be payable.

(d) *Continuing Obligation.* Following any sale of Bank Bonds pursuant to Section 2.4(b) or otherwise, or any election to retain Bonds pursuant to Section 2.4(c), the Bank shall retain the right to receive payment from the Commonwealth of any interest thereon as provided herein (including any Differential Interest Amount), in Section 3.5(b) hereof and in the Bonds. Any such amounts shall be payable by the Commonwealth to the Bank on the earlier of (i) the occurrence of an Immediate Termination Event, (ii) the Interest Payment Date next succeeding the applicable Purchase Date or, if the Purchase Date is an Interest Payment Date, then on said Purchase Date and (iii) the final day of the Commitment Period.

(e) *No Warranty.* Any sale of a Bank Bond pursuant to this Section 2.4 shall be without recourse to the seller and without representation or warranty of any kind by the Bank or any Bank Bondholder.

SECTION 2.5. *Rights of Bank.* Unless and until a Bank Bond is remarketed pursuant to the Remarketing Agreement and the Tender Agent Agreement, and further subject to the right of the Bank pursuant to Section 9.4 hereof, Bank Bonds will be held by the Bank and each Bank Bondholder until paid in full or redeemed in accordance with the terms of the Bonds and this Agreement. Upon purchasing Bank Bonds, the Bank and each Bank Bondholder shall be entitled to and, where necessary, deemed assigned all rights and privileges accorded owners of Bonds that are not Bank Bonds, except to the extent the Bonds and/or this Agreement provide to the Bank and each Bank Bondholder rights, privileges or obligations that are not applicable to owners in general, and except to the extent such rights and privileges conflict with this Agreement in which case the terms of this Agreement shall prevail and govern. The Bank and each Bank Bondholder shall, upon receipt of written request, notify the Remarketing Agent of the number of Bank Bonds it is holding. During any period in which there are Bank Bonds Outstanding, the Bank shall notify the Remarketing Agent one week prior to the following

Interest Payment Date of the Bank Rate in effect for such Bank Bonds from time to time during that period.

SECTION 2.6. *Extension of Commitment Period.* The Expiration Date may be extended an unlimited number of times, in each case in the manner set forth in this Section 2.6. Upon receipt of written request of the Commonwealth to extend the Expiration Date for a period of not less than one (1) year and not more than five (5) years in the form of Exhibit C hereto (received no earlier than the first anniversary of the Effective Date and not less than one hundred eighty (180) days prior to the Expiration Date), the Bank will notify the Commonwealth of its response within sixty (60) days of receipt of the request therefor (the Bank's decision to be made in its sole discretion and on such terms and conditions as to which the Bank and the Commonwealth may agree). Absent receipt of written confirmation of extension, the written request of the Commonwealth shall be deemed denied. Any extension of this Agreement will be deemed to be on the existing terms of this Agreement unless the Bank and the Commonwealth have entered into a writing confirming a change in any term of this Agreement.

SECTION 2.7. *Bank Bonds.* The Commonwealth agrees to pay the Bank interest on each Liquidity Advance and Term Loan at a rate per annum equal to the Bank Rate; *provided, however*, that upon the occurrence of any Event of Default, all Bank Bonds shall bear interest, payable on demand, at a rate per annum equal at all times to the Default Rate. The Commonwealth agrees that interest with respect to any Liquidity Advance shall be payable monthly in arrears on the first Business Day of each month, on each of the dates set forth in Sections 2.2(e) and 2.2(f) for repayment of principal on Liquidity Advances and Term Loans, respectively, on demand on the date immediately following any of the foregoing dates if such interest has not been paid in full when due and, in the case of any Differential Interest Amount with respect to a Bank Bond, on the applicable Sale Date. The Commonwealth further agrees that the Interest Component, if any, included in the Purchase Price paid by the Bank for any Bond shall be due and payable on the date such Bond is purchased hereunder. To the extent the Bank receives payment of principal of and interest on any Bank Bond, the Liquidity Advance or Term Loan, as the case may be, made in connection with the purchase of such Bank Bond shall be deemed reduced pro tanto, with the Bank crediting any interest payment on the Bank Bond received by it, first to the payment of interest on the Liquidity Advance or Term Loan, as the case may be, and then to the payment of principal on such Liquidity Advance or Term Loan, as the case may be, and crediting any principal repayment received on the Bank Bond to the principal of such Liquidity Advance or Term Loan, as the case may be. In the event any Bank Bond is remarketed or otherwise transferred by the Bank before payment in full of the Differential Interest Amount with respect thereto, the provisions of this Section 2.7 shall continue to apply to such indebtedness until all sums for all periods during the same was a Bank Bond are paid.

SECTION 2.8. *Bank Records.* All transactions relating to the Available Commitment and Bank Bonds including, without limitation, redemptions, repayments, interest charges and reductions in the amount of the Available Commitment shall be reflected in the books and records of the Bank, which records shall be conclusive and binding upon the Commonwealth absent manifest error.

SECTION 2.9. Method of Payment; Etc. All payments to be made by the Commonwealth under this Agreement shall be made at the Bank's address in set forth on Exhibit D, or any, other place designated in writing by the Bank not later than 2:00 p.m., New York time, on the date when due and shall be made in lawful money of the United States of America in freely transferable and immediately available funds. If any such payment is received by the Bank after 2:00 p.m., New York time, it shall be deemed to have been paid on the next succeeding Business Day.

SECTION 2.10. General Obligation. The obligation of the Commonwealth to repay Liquidity Advances and Term Loans through repayment of Bank Bonds constitutes a general obligation of the Commonwealth to which the full faith and credit of the Commonwealth are pledged on a parity with all other general obligation debt of the Commonwealth to which the full faith and credit of the Commonwealth are pledged. The other Obligations of the Commonwealth under this Agreement also constitute general obligations of the Commonwealth, subject to the fact that legislative appropriation may be required for the payment thereof.

ARTICLE III

FEES, COSTS, EXPENSES, PAYMENTS AND INDEMNIFICATION

SECTION 3.1. Commitment and Other Fees. (a) The Commonwealth shall pay to the Bank at its address set forth in Exhibit D hereof a commitment fee (the "**Commitment Fee**") accruing at the rate initially established herein and subsequently in the Request for Extension of Expiration Date attached hereto as Exhibit C. The initial Commitment Fee shall accrue at the rate of [REDACTED] per annum on the Available Commitment. Such Commitment Fee shall be payable in arrears quarterly on the first Business Day of each March, June, September and December during the Commitment Period (commencing on March 1, 2003) and on the last day of the Commitment Period, and shall be calculated on the basis of the average daily amount of the Available Commitment and on the basis set forth in Section 3.3(c); *provided, however*, that the Commitment Fee shall be increased or decreased as set forth in Schedule I hereto. If the Available Commitment is terminated in its entirety, all accrued Commitment Fees shall be payable on the effective date of such termination.

(b) On each date the Commitment Fee is payable hereunder, the Commonwealth shall pay or cause to be paid to the Bank a fee equal to [REDACTED] to compensate the Bank for its expenses in connection with each purchase of Bonds by the Bank made during the immediately preceding calendar year quarter.

(c) In connection with the written request by the Commonwealth of (i) any amendment, consent, supplement, modification or waiver of or under this Agreement or (ii) any transfer of the rights and obligations of the parties to this Agreement (other than the Bank) or the Tender Agent, the Commonwealth shall pay or cause to be paid to the Bank a sum equal to [REDACTED] plus the reasonable fees and expenses of counsel to the Bank in accordance with the provisions of Section 3.4 hereof.

(d) The Commonwealth also agrees to pay or cause to be paid to the Bank any termination fee described in Section 2.3(b) and all fees described in Section 3.4, in each case, when, as and to the extent said amounts are due and payable.

(e) All fees required to be paid under this Agreement shall, upon payment, be non-refundable; *provided*, that amounts that may be required to be refunded by the Bank in favor of the Commonwealth pursuant to Section 3.2 shall be excluded from the provisions of this Section 3.1(e).

SECTION 3.2. *Increased Cost of Maintaining the Commitment and Reduced Return.* If after the Effective Date, the Bank shall have determined that the adoption of any applicable law, rule or regulation, or any change therein, or any change in the interpretation or administration thereof by any governmental authority, central bank or comparable agency charged with the interpretation or administration thereof, or compliance by the Bank with any request or directive of any such authority, central bank or comparable agency, has or would:

(a) limit the deductibility of interest on funds obtained by the Bank to pay any of its liabilities or subject the Bank to any tax, duty, charge, deduction or withholding on or with respect to payments relating to the Bonds or this Agreement, or any amount paid or to be paid by the Bank pursuant to this Agreement (other than any tax measured by or based upon the overall net income or gross receipts of the Bank imposed by any jurisdiction having control over the Bank);

(b) impose, modify, require, make or deem applicable to the Bank any reserve requirement, capital requirement, special deposit requirement, insurance assessment or similar requirement against any assets held by, deposits with or for the account of, or loans, letters of credit, standby bond purchase agreements or commitments by, an office of the Bank;

(c) change the basis of taxation of payments due the Bank under this Agreement or the Bonds (other than by a change in taxation of the overall net income or gross receipts of the Bank); or

(d) impose upon the Bank any other condition with respect to any amount paid or payable to or by the Bank or with respect to this Agreement or any of the other Related Documents;

and the result of any of the foregoing is to increase the cost to the Bank of making any Liquidity Advance or maintaining its commitment hereunder, or to reduce the amount of any payment (whether of principal, interest or otherwise) receivable by the Bank, or to reduce the rate of return on the capital of the Bank or to require the Bank to make any payment on or calculated by reference to the gross amount of any sum received by it, in each case by an amount which the Bank in its reasonable judgment deems material, then:

(i) the Bank shall promptly notify the Commonwealth in writing of such event;

(ii) the Bank shall promptly deliver to the Commonwealth a certificate stating the change which has occurred or the reserve requirements or other costs or

conditions which have been imposed on the Bank or the request, direction or requirement with which it has complied, together with the date thereof, the amount of such increased cost, reduction or payment and a reasonably detailed description of the way in which such amount has been calculated, and the Bank's determination of such amounts, absent fraud or manifest error, shall be conclusive; and

- (iii) the Commonwealth shall pay to the Bank, from time to time as specified by the Bank in accordance with the terms of this Agreement, such an amount or amounts as will compensate the Bank for such additional cost, reduction or payment.

The protection of this Section 3.2 shall be available to the Bank regardless of any possible contention of invalidity or inapplicability of the law, regulation or condition which has been imposed; *provided, however*, that if it shall be later determined by the Bank that any amount so paid by the Commonwealth pursuant to this Section 3.2 is in excess of the amount payable under the provisions hereof, the Bank shall refund such excess amount to the Commonwealth within thirty (30) days after such determination.

The obligations of the Commonwealth under this Section 3.2 shall survive the termination of this Agreement.

SECTION 3.3. *Payments.*

(a) ***Method and Place of Payment.*** Except as otherwise specifically provided herein, all payments of principal of and interest on Bank Bonds shall be paid by wire transfer to the registered Owner thereof, and all amounts payable under this Agreement shall be made to the Bank, not later than 2:00 p.m., New York time, on the date when due and shall be made in immediately available funds. If any such payment is received by the Bank after 2:00 p.m., New York time, it shall be deemed to have been paid on the next succeeding Business Day. The Bank shall give written instructions to the Tender Agent not less than one (1) Business Day before the date of such payment as to which Bank Bonds will be paid and the identities of the Owners thereof. Whenever any payment to be made with respect to Bank Bonds or hereunder shall be stated to be due on a day which is not a Business Day, the due date thereof shall be extended to the next succeeding Business Day and, with respect to payments of principal (other than a payment of principal of Bank Bonds at maturity, upon defeasance, redemption or otherwise), interest shall be payable at the applicable rate during such extension. Whenever any payment to be made under Bank Bonds at maturity or earlier redemption shall be stated to be due on a day which is not a Business Day, the date for payment thereof shall be extended to the next succeeding Business Day.

(b) ***Net Payments.*** All payments of Bank Bonds and all payments made by the Commonwealth hereunder will be made without set-off, counterclaim or other defense. All such payments will be made free and clear of, and without deduction or withholding for, any present or future taxes, levies, imposts, duties, fees, assessments or other charges of whatever nature now or hereafter imposed by any jurisdiction or by any political subdivision or taxing authority thereof or therein (but excluding any business and occupation taxes, withholding taxes or any tax

imposed on or measured by the net income of the Bank pursuant to the laws of the jurisdiction (whether federal or state) or any political subdivision or taxing authority thereof or therein in which the principal office of the Bank is located) and all interest, penalties or similar liabilities with respect thereto (collectively, "Taxes"). If any Taxes are so levied or imposed, the Commonwealth agrees to pay to the Bank the full amount of the Taxes as may be necessary so that every payment of all amounts due with respect to the Bank Bonds or hereunder, after withholding or deduction for or on account of any Taxes, will not be less than the amount provided for with respect to the Bank Bonds or herein. To the extent the Bank is notified by any jurisdiction, political subdivision or taxing authority of the levy or imposition of Taxes upon the Bank, the Bank will promptly furnish notice to the Commonwealth of the amount and due date of any such Taxes levied or imposed. To the extent permitted by law, the Commonwealth will hold the Bank harmless, and reimburse the Bank upon its written request, for the amount of any Taxes so levied or imposed and paid by the Bank. The obligations of the Commonwealth under this Section 3.3(b) shall survive the termination of this Agreement.

(c) All computations of fees and interest payable with respect to Obligations (other than Bank Bonds) by the Commonwealth under this Agreement shall be made on the basis of a three hundred sixty (360) day year and actual days elapsed. All computations of interest due with respect to Bank Bonds shall be made on the basis of a three hundred sixty-five/six (365/6) day year over the actual number of days elapsed.

SECTION 3.4. *Expenses, Documentary Taxes.* The Commonwealth shall pay (a) all out-of-pocket expenses of the Bank, including fees and reasonable expenses of [REDACTED]

[REDACTED] with the preparation, execution and delivery of this Agreement and the Related Documents, *provided*, that such counsel fees shall not exceed [REDACTED] in the aggregate, (b) all reasonable out-of-pocket expenses of the Bank, including fees and expenses of Special Counsel or any other counsel retained by the Bank in connection with any waiver or consent hereunder, under the Bonds or under any Related Documents or any amendment hereof or thereof or any Default or alleged Default hereunder or thereunder and (c) if any Default or Event of Default occurs, all out-of-pocket expenses incurred by the Bank, including fees and disbursements of counsel retained in connection with such Default or Event of Default and collection and other enforcement proceedings resulting therefrom. To the extent permitted by law (and without duplication of any other fees, costs or expenses payable by the Commonwealth under this Article III), the Commonwealth shall indemnify the Bank against any transfer taxes, documentary taxes, assessments or charges made by any governmental authority (other than taxes imposed, directly or indirectly, upon the Bank by reference to the Bank's income) by reason of the execution and delivery of this Agreement or any Related Document or the purchase of the Bonds by the Bank pursuant to this Agreement. The Bank does not have actual knowledge that any such amounts are currently or may be imposed by reason of the execution and delivery of this Agreement or any Related Document or the purchase of Bonds by the Bank pursuant to this Agreement.

SECTION 3.5. *Interest on Overdue Payments; Deferred Interest.* (a) The Commonwealth shall pay or cause to be paid interest at the Default Rate in effect from time to time on overdue amounts payable by the Commonwealth hereunder including any accrued and unpaid interest on Bank Bonds. Such interest shall be payable on written demand of the Bank.

(b) In no event shall the amount of interest payable under this Agreement or the Bank Bonds exceed the Maximum Rate. In the event any interest required to be paid under the Bank Bonds or hereunder at any time exceeds the Maximum Rate, the portion of such interest required to be paid on a current basis shall equal such Maximum Rate; *provided, however*, that the differential between the amount of interest payable (assuming no Maximum Rate were applicable) and the amount paid on a current basis after giving effect to the Maximum Rate shall be carried forward and shall (until paid) accrue interest at a rate equal to the Base Rate plus 1.00% per annum and shall be payable (including interest accrued thereon) on any subsequent date of calculation (but in any event, no later than the last day of the Commitment Period when all such amounts shall become due and payable) so as to result in a recovery of interest previously unrealized (because of the limitation dictated by such Maximum Rate) at a rate of interest, and as part of the interest payable, that, after giving effect to the recovery of such excess and all other interest paid and accrued hereunder to the date of calculation, does not exceed such Maximum Rate. Upon termination of this Agreement and repayment of all Bank Bonds, in consideration of the limitation on the rate of interest otherwise payable hereunder, to the extent permitted by law, the Commonwealth shall pay the Bank a fee equal to the unpaid amount then due and payable as deferred interest on said Bank Bonds.

SECTION 3.6. Indemnification. In addition to any and all rights of reimbursement, indemnification, subrogation or any other rights pursuant hereto or under law or equity, the Commonwealth agrees, to the extent permitted by law, to indemnify and hold harmless each of the Bank, each Participant and their respective officers, directors, employees and agents (each an "*Indemnified Party*") from and against any and all claims, damages, losses, liabilities, reasonable costs or expenses whatsoever that an Indemnified Party, or any of them, may incur (or which may be claimed against an Indemnified Party, or any of them, by any Person whatsoever) that arises out of the transactions contemplated by this Agreement or the Related Documents, including, without limitation, (a) the remarketing or resale of the Bonds (including, without limitation, by reason of any untrue statement or alleged untrue statement of any material fact contained or incorporated by reference in the Official Statement or any other offering circular or document used in connection therewith, or in any supplement or amendment thereof, or the omission or alleged omission to state therein a material fact necessary to make such statement, in light of the circumstances under which they are or were made, not misleading or the failure to deliver the Official Statement or any other offering circular or document to any offeree or purchaser of Bonds but excluding any information included in the Official Statement or such other offering circular relating to the Bank and provided in writing by the Bank for inclusion therein), (b) the execution, delivery and performance of, or payment or failure to pay under, this Agreement and (c) the use of the proceeds of any amounts drawn under this Agreement; *provided, however*, that the Commonwealth shall not be required to indemnify any Indemnified Party for any claims, damages, losses, liabilities, costs or expenses to the extent, but only to the extent, caused by the willful misconduct or gross negligence of such Indemnified Party, as applicable. If any proceeding shall be brought or threatened against an Indemnified Party by reason of or in connection with the events described above (and except as otherwise provided above), such Indemnified Party shall promptly notify the Commonwealth in writing and the Commonwealth shall assume the defense thereof, including the employment of counsel and the payment of all costs of litigation. Notwithstanding the preceding sentence, such Indemnified Party shall have the right to employ its own counsel and to determine its own defense of such action in any such case, but the fees and expenses of such counsel shall be at the

expense of such Indemnified Party unless (i) the employment of such counsel shall have been authorized in writing by the Commonwealth or (ii) the Commonwealth, after due notice of the action, shall have failed to employ counsel to take charge of such defense, in either of which events, the reasonable fees and expenses of counsel for such Indemnified Party shall be borne by the Commonwealth. The Commonwealth shall not be liable for any settlement of any such action effected without its consent.

The provisions of this Section 3.6 shall survive the termination of this Agreement and the payment in full of the Bank Bonds and the other Obligations of the Commonwealth hereunder.

ARTICLE IV

CONDITIONS

SECTION 4.1. *Conditions to Effectiveness of this Agreement.* This Agreement shall become effective on the date (the "**Effective Date**") on which the following conditions are performed to the satisfaction of the Bank and its Special Counsel:

- (a) there shall have been delivered to the Bank the following:
 - (i) counterparts of this Agreement which shall have been duly executed and delivered by the Commonwealth and the Bank;
 - (ii) executed copies of the Related Documents and a conformed copy of the Official Statement;
 - (iii) a copy of the opinion of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, PC ("**Bond Counsel**"), as to the enforceability of this Agreement;
 - (iv) a copy of the original approving opinion of Bond Counsel, dated September 17, 1998, together with a letter dated the Effective Date permitting the Bank to rely on said opinion;
 - (v) a certificate from the Tender Agent containing the names and specimen signatures of those officers authorized to execute documents on behalf of the Tender Agent;
 - (vi) a copy of each opinion, certificate, report and other document delivered on September 17, 1998 in connection with the original delivery of the Bonds;
 - (vii) all other documents the Bank may reasonably request relating to the existence of the Commonwealth and the legal authority for and the validity, binding effect and enforceability of this Agreement and the Related Documents, the tax-exempt status of interest on the Bonds and any other matters relevant hereto or thereto, all in form and substance satisfactory to the Bank;

- (viii) such other documents, instruments and opinions as the Bank may reasonably require;
- (ix) evidence that the Commonwealth shall have duly executed, issued and delivered the Bonds;
- (x) an executed copy of the Overlap Agreement;
- (xi) any fees and disbursements payable to the Bank hereunder on or prior to the Effective Date; and
- (xii) a certificate of incumbency, executed by the Treasurer or Deputy Treasurer, certifying those officers authorized to execute documents on behalf of the Commonwealth;

(b) no Default or Event of Default as defined herein, and in the Prior Agreement, shall have occurred and be continuing on the Effective Date and no Default or Event of Default will result from the execution or delivery of this Agreement by the Commonwealth;

(c) the representations and warranties of the Commonwealth contained (or incorporated by reference) in this Agreement and in any Related Document shall be true and correct in all material respects on and as of the Effective Date as if made on and as of such date;

(d) the Commonwealth shall have delivered to the Bank a certificate signed by the Treasurer or Deputy Treasurer, dated the Effective Date, affirming the truth and accuracy of clauses (b) and (c) of this Section as such clauses relate to the Commonwealth;

(e) no material adverse change in any law, rule, guideline or regulation (or the interpretation or administration thereof) shall have occurred and be continuing that in the opinion of Special Counsel for the Bank would make it illegal for the Bank to execute and deliver this Agreement as provided herein;

(f) the effectiveness of this Agreement shall not contravene any law, rule or regulation applicable to the Commonwealth or the Bank or any request, guideline or directive of any governmental authority with jurisdiction over either the Commonwealth or the Bank; and

(g) all proceedings in connection with this Agreement, and all documents incidental thereto, shall be satisfactory to Special Counsel and to the Bank.

SECTION 4.2. *Conditions to Each Purchase.* The obligation of the Bank to purchase Bonds hereunder on any Purchase Date is subject to the following conditions:

(a) the Bank shall have received a Notice of Bank Purchase as required by Section 2.2 hereof; and

(b) no Immediate Termination Event or Suspension Event shall exist on such Purchase Date.

Each notification delivered pursuant to clause (a) of this Section 4.2 hereof shall constitute a representation and warranty by the Commonwealth on each Purchase Date that (i) the condition described in the clause (b) of this Section 4.2 has been satisfied on such Purchase Date and (ii) that the representations and warranties made by the Commonwealth in Article V hereof are true and correct in all material respects on and as of such Purchase Date, as if made on and as of such Purchase Date.

ARTICLE V

REPRESENTATIONS AND WARRANTIES

SECTION 5.1. Representations and Warranties.

(a) The Treasurer and Receiver-General of the Commonwealth had, at all relevant times, and has all requisite power and authority to execute and deliver this Agreement and the Related Documents and the Commonwealth had, at all relevant times, and has all requisite power and authority to perform all of its obligations hereunder and thereunder.

(b) No authorization, consent, approval, license, exemption of or registration with any court or governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign was, is or will be necessary for the valid execution, delivery and performance by the Commonwealth of this Agreement and the Related Documents, except that a legislative appropriation may be required for the payment of amounts due under this Agreement and the Related Documents, and such execution, delivery and performance, did not, does not and will not violate, conflict with or constitute a default under any constitutional or statutory provision or other law, rule, regulation or order or any agreement or instrument to which the Commonwealth is a party or by which it is bound.

(c) The Commonwealth has taken all necessary action to authorize the execution, delivery and performance by it of this Agreement and each of the Related Documents to which it is a party. This Agreement and the Related Documents constitute legal, valid and binding obligations of the Commonwealth enforceable against the Commonwealth in accordance with their respective terms and the Obligations of the Commonwealth hereunder constitute general obligations of the Commonwealth as described in Section 2.10 hereof.

(d) There are no suits or proceedings pending or threatened against the Commonwealth (i) which question the validity or enforceability of the Related Documents or any action taken or to be taken thereunder or (ii) in which there is a reasonable possibility of an adverse decision which could materially adversely affect the Commonwealth's ability to perform its obligations hereunder.

(e) The Commonwealth is not engaged in the business of extending credit for the purpose of purchasing or carrying margin stock (within the meaning of Regulation U or X of the Board of Governors of the Federal Reserve System), and no part of the proceeds of any Liquidity Advance will be used to purchase or carry any margin stock or to extend credit to others for the purpose of purchasing or carrying any margin stock.

(f) The Commonwealth hereby makes to the Bank the same representations and warranties as were made by it in each Related Document to which it is a party, which representations and warranties, together with the related definitions of terms contained therein, are hereby incorporated by reference with the same effect as if each and every such representation and warranty and definition were set forth herein in its entirety. No amendment to such representations and warranties or definitions made pursuant to the relevant Related Document shall be effective to amend such representations and warranties and definitions as incorporated by reference herein without the prior written consent of the Bank.

(g) All information, reports and other papers and data with respect to the Commonwealth furnished to the Bank or its counsel by the Commonwealth were, taken in the aggregate and at the time the same were so furnished, complete and correct in all material respects, to the extent necessary to give the Bank a true and accurate knowledge of the subject matter. No fact is known to the Commonwealth which materially and adversely affects the assets or liabilities or financial condition of the Commonwealth which has not been set forth in the financial statements or in such information, reports, papers and data or otherwise disclosed in writing to the Bank by the Commonwealth. When taken in the aggregate, no document furnished or statement made by the Commonwealth in connection with the negotiation, preparation or execution of this Agreement or any Related Document contains any untrue statement of a fact material to the creditworthiness of the Commonwealth or omits to state a material fact necessary in order to make the statements contained therein, in light of the circumstances under which they were made, not misleading.

(h) There is no amendment or, to the knowledge of the Commonwealth, proposed amendment to the Constitution of the Commonwealth or any administrative interpretation of the Constitution of the Commonwealth or any Commonwealth law or, any judicial decision interpreting any of the foregoing, the effect of which will materially adversely affect the remarketing of any of the Bonds, the security for any of the Bonds or the Commonwealth's obligations hereunder or under any of the Related Documents, or the Commonwealth's ability to repay when due its obligations under this Agreement, any of the Bonds and the other Related Documents.

(i) The Commonwealth has waived immunity from suit on the grounds of sovereignty as to any of its contractual obligations, including, but not limited to, payment obligations under this Agreement to the fullest extent permitted under applicable law; and proceedings may be brought against the Commonwealth in such courts and tribunals as are permitted under the laws of the Commonwealth.

(j) Provided that the Bank is subject to control, regulation or examination by any state or federal regulatory agency, the Obligations of the Commonwealth are not subject to any usury limitations of the Commonwealth.

(k) The Commonwealth has not granted to any Person holding any general obligation debt, issued or incurred by the Commonwealth, the right to accelerate the Commonwealth's obligation to repay such debt following the occurrence of an event of default with respect to such debt.

(l) The Commonwealth has not taken any action which would cause interest on the Bonds to be includable in the gross income of the recipients thereof for Federal income tax purposes.

ARTICLE VI

COVENANTS

SECTION 6.1. *Covenants.* The covenants set forth in this Article VI shall apply so long as the Commitment Period is in effect or any amount payable hereunder or any Bank Bond remains unpaid.

(a) The Commonwealth shall punctually pay or cause to be paid its Obligations hereunder and all amounts to become due in respect of the Bonds (including Bank Bonds) in strict conformity with the terms of the Bonds and this Agreement and it shall faithfully observe and perform all of the conditions, covenants and requirements of the Agreement and the Related Documents.

(b) The Commonwealth shall furnish to the Bank (i) copies of all legislation relating to the Bonds and this Agreement and the other documents required to be delivered pursuant hereto; (ii) preliminary and final audited annual financial statements of the Commonwealth within thirty (30) days of the issuance thereof to the public; (iii) quarterly revisions of monthly cash flows of the Commonwealth comparing actual performance to budgeted amounts for receipts and disbursements; (iv) financial reports, budgets, official statements and similar information issued by it to the public promptly after such issuance but in no event later than thirty (30) days after such issuance to the public; (v) immediate notice by telephone, promptly confirmed in writing, of any Default or Event of Default; and (vi) such other information on the financial condition and affairs of the Commonwealth promptly as the Bank may reasonably request from time to time.

(c) The Commonwealth shall not (i) cause or permit the Related Documents to be amended, modified or otherwise supplemented in a manner that adversely affects the Bank without the prior written consent of the Bank or (ii) cause or permit a successor Tender Agent or Remarketing Agent to be appointed or cause or permit there to be a vacancy in the position of Tender Agent or Remarketing Agent, without the prior written consent of the Bank, which consent shall not be unreasonably withheld. In the event such consent is withheld, the Bank will promptly provide the Commonwealth, in reasonable detail, an explanation of such withholding of consent, which explanation the Commonwealth agrees, to the extent permitted by law, not to disclose without the prior written consent of the Bank.

(d) The Treasurer and Receiver-General of the Commonwealth shall annually request that the Commonwealth include in its annual budget the sums necessary to satisfy its Obligations hereunder.

(e) The Commonwealth will permit any officers, employees or agents of the Bank (at the Bank's expense) to discuss with appropriate Commonwealth officials matters reasonably

pertinent to an evaluation of the credit of the Commonwealth, all at such reasonable times as the Bank may reasonably request.

(f) The Commonwealth agrees that it will perform and comply with each and every covenant and agreement required to be performed or observed by it in this Agreement and the Related Documents (other than the Official Statement), which provisions, as well as related defined terms contained therein, are hereby incorporated by reference herein with the same effect as if each and every such provision were set forth herein in its entirety.

(g) The Commonwealth will only use the proceeds of each Liquidity Advance hereunder to pay the Purchase Price due and payable on any Purchase Date in connection with any Eligible Bonds and no such proceeds shall be used by the Commonwealth in violation of Regulations U and X, as amended, promulgated by the Board of Governors of the Federal Reserve System.

(h) (i) The Commonwealth agrees to use its best efforts to obtain an Alternate Liquidity Facility to replace this Agreement in the event (A) the Bank shall decide not to extend the Expiration Date pursuant to Section 2.6, (B) the Commonwealth terminates this Agreement pursuant to Section 2.3 or does not request an extension pursuant to Section 2.6, or (C) a Mandatory Purchase Date shall have occurred with any funds made available hereunder.

(ii) The Commonwealth agrees that any Alternate Liquidity Facility will require, as a condition to the effectiveness of the Alternate Liquidity Facility, that the Commonwealth or a Replacement Bank will provide funds to the extent necessary, in addition to other funds available, on the Substitution Date, to make the payments set forth in Section 2.3(c) hereof to the Bank on such Date. On such Substitution Date, any and all Obligations due hereunder (other than principal and interest due and payable with respect to any Bank Bonds) shall be payable to the Bank and all principal and interest due on the Bank Bonds shall be payable in full to the Bank.

(iii) The Commonwealth shall not permit an Alternate Liquidity Facility to become effective with respect to less than all of the Bonds without the prior written consent of the Bank.

(i) The Commonwealth shall select, or cause to be selected, for redemption any and all Bank Bonds prior to selecting, or causing to be selected, for redemption any Bonds that are not Bank Bonds.

(j) If at any time the Commonwealth Rating falls below the "Aa3" level, in the case of Moody's, or the "AA-" level in the case of S&P or Fitch, or if any such Rating is suspended or withdrawn, the Commonwealth will use its best efforts to (i) convert the interest rate on the Bonds to a Fixed Rate, (ii) obtain an Alternate Liquidity Facility pursuant to the Bonds and satisfying the requirements of this Agreement, or (iii) provide insurance or other credit enhancement in respect of principal and interest on the Bonds (including Bank Bonds) on terms, in form and substance and from an insurer (if applicable) satisfactory to the Bank.

(k) The Commonwealth (i) will promptly furnish, or cause to be furnished, to the Bank, not later than its furnishing the same to the Remarketing Agent, a copy of any written notice furnished by the Commonwealth to the Remarketing Agent indicating a proposed conversion of the interest rate on the Bonds; and (ii) shall not permit a conversion of all of the Bonds to Bonds bearing interest rate at the Fixed Rate without the prior written consent of the Bank if, after giving effect to such conversion, any Bonds remain as Bank Bonds. In addition, the Commonwealth will not defease, nor allow the defeasance of, the Bonds without having contemporaneously satisfied all of its Obligations hereunder.

(l) The Commonwealth shall, upon the request of the Bank, from time to time, execute and deliver and, if necessary, file, register and record such further financing statements, amendments, confirmation statements and other documents and instruments and take such further action as may be reasonably necessary to effectuate the provisions of this Agreement and the Related Documents. Except to the extent it is exempt therefrom, the Commonwealth will pay or cause to be paid all filing, registration and recording fees incident to such filing, registration and recording, and all expenses incident to the preparation, execution and acknowledgment of such instruments of further assurance, and all federal or state fees and other similar fees, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of this Agreement, the Related Documents and such instruments of further assurance.

(m) The Commonwealth shall not include in an offering document for the Bonds any information concerning the Bank that is not supplied in writing, or otherwise consented to, by the Bank expressly for inclusion therein.

(n) The Commonwealth agrees to permit the Bank to disclose any information received by the Bank in connection herewith to any Participants of the Bank in this Agreement.

(o) To the extent permitted by law, the Commonwealth shall not grant the remedy of acceleration to any person holding any general obligation debt issued or incurred by the Commonwealth upon the occurrence of an event of default with respect to such debt unless either:

(i) The Commonwealth has received the prior written consent of the Bank; or

(ii) The Commonwealth shall grant the Bank the right to accelerate amounts owed hereunder and pursuant to the Bank Bonds upon the occurrence of an Event of Default.

(p) The Commonwealth will not use, or permit the use of, any Bond proceeds in any manner which would cause the Bonds to be "arbitrage bonds" within the meaning of Section 148(a) of the Internal Revenue Code of 1986, as amended.

(q) The Commonwealth will not take any action or omit to take any action which, if taken or omitted, would adversely affect the exclusion of interest with respect to the Bonds from gross income for purposes of federal income taxation or the exemption of such interest from personal income taxes in the Commonwealth.

(r) On or before January 15, 2003, the Commonwealth shall provide evidence to the Bank that the Bonds bear ratings of no less than "Aa2/VMIG-1" from Moody's, "AA-/A-1+" from S&P and "AA-/F1+" from Fitch.

ARTICLE VII

EVENTS OF DEFAULT

SECTION 7.1. *Events of Default.* The following events shall be "Events of Default":

(a) the Commonwealth shall fail to pay or cause to be paid when due (i) any amounts with respect to the principal of or interest or premium, if any, on the Bonds (including Bank Bonds) or on the Series B Bonds referred to in the Toronto-Dominion Standby Agreement, (ii) any amounts payable under Section 2.2 or 2.7 hereunder, or (iii) any other amount payable pursuant to this Agreement or the Bonds (including Bank Bonds); or

(b) the Commonwealth shall fail to observe or perform any covenant or agreement set forth in Section 6.1(d), (h), (j) and (o) hereof; or

(c) the Commonwealth shall fail to observe or perform any covenant or agreement contained (or incorporated by reference) in this Agreement (other than those covered by clauses (a) and (b) above), or in any Related Document to which it is a party or in the Bonds for thirty (30) days after written notice thereof requesting that such default be remedied has been given to it by the Bank; or

(d) any representation, warranty, certification or statement made by the Commonwealth (or incorporated by reference) in this Agreement or in any Related Document to which it is a party or in any certificate, financial statement or other document delivered pursuant to this Agreement or any Related Document shall prove to have been incorrect in any material respect when made; or

(e) (i) the Commonwealth shall fail to make payment when due in respect of any general obligation debt of the Commonwealth with an aggregate principal amount in excess of \$5,000,000, or any interest or premium thereon, and such failure shall continue beyond any applicable period of grace specified in any underlying resolution, indenture, contract or instrument providing for the creation of or concerning such general obligation debt, or pursuant to the provisions of any such resolution, indenture, contract or instrument, the maturity of any such general obligation debt shall have been or, as a result of a payment default of any nature, may be accelerated or shall have been, or, as a result of a payment default of any nature, may be required to be prepaid prior to the stated maturity thereof; or (ii) the Commonwealth shall fail to pay when due and payable (whether by scheduled maturity, required prepayment, acceleration, demand or otherwise) any debt, other than general obligation debt of the Commonwealth, with an outstanding principal amount in excess of \$5,000,000, and such failure shall continue beyond any applicable period of grace specified in any underlying resolution, indenture, contract or instrument providing for the creation or concerning such debt, or any other default under any

resolution, indenture, contract or instrument providing for the creation of or concerning such debt, or any other event shall occur and shall continue after the applicable grace period, if any, specified in such resolution, indenture, contract or instrument, if the effect of such default or event is to accelerate, or to permit the acceleration of, the maturity of such debt; or (iii) pursuant to the provisions of any such resolution, indenture, contract or instrument the maturity of any debt, other than general obligation debt of the Commonwealth, in a principal amount in excess of \$5,000,000 shall have been or may be accelerated or shall have been or may be required to be prepaid prior to the stated maturity thereof; or

(f) an event of default or default shall have occurred and shall be continuing under any of the Related Documents; or

(g) (i) any material provision of this Agreement or any Related Document relating to the payment of any Obligations hereunder or under the Bonds or the security therefor shall at any time for any reason cease to be valid and binding on the Commonwealth or shall be declared to be null and void as the result of a final judgment or action by any court or governmental authority or agency having jurisdiction over the Commonwealth; or (ii) the Commonwealth (A) repudiates or otherwise denies, in writing, in a judicial or administrative proceeding that it has any further liability or obligation hereunder or with respect to the Bonds, (B) shall have taken or permitted to be taken any action, or has duly enacted any statute, which would materially adversely affect the enforceability of the Bonds or (C) contests, in a judicial or administrative proceeding, the validity or enforceability of any material provision of this Agreement, the Bonds or any Related Document relating to or otherwise affecting the Commonwealth's obligation to pay the principal of or interest on any Bonds; or (iii) the Legislature of the Commonwealth shall fail to appropriate, on a timely basis, the funds necessary to pay any amounts when due in connection with the Bonds (including any Bank Bonds), the Series B Bonds or any other general obligation debt of the Commonwealth; or

(h) a debt moratorium, debt restructuring or comparable restriction on repayment of debt shall have been declared or announced (whether or not in writing) with respect to any general obligation debt of the Commonwealth, or the Commonwealth shall have become insolvent or admit in writing its inability to pay its debts as they mature, or the Commonwealth shall seek any form of debtor relief affecting its general obligation debt, or a trustee, custodian, liquidator or receiver shall be appointed with respect to any assets of the Commonwealth or the Commonwealth, shall be declared by a court of competent jurisdiction or shall declare itself to be insolvent or there shall be commenced against the Commonwealth in a court of competent jurisdiction any case, proceeding or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial part of its assets, which results in the entry of an order for any such relief which shall not have been discharged within thirty (30) days from the entry thereof; or

(i) (i) the Commonwealth Rating is reduced below "A2" (or its equivalent), "A" (or its equivalent) or "A" (or its equivalent), by Moody's, S&P or Fitch, respectively, or (ii) the Commonwealth Rating provided by Moody's, Fitch or S&P shall be withdrawn or suspended for credit-related reasons or reduced below "Baa3" (or its equivalent), "BBB-" (or its equivalent) or "BBB-" (or its equivalent) by Moody's, S&P or Fitch, respectively; or

(j) (i) a final, nonappealable judgment or order for the payment of money in excess of \$10,000,000 in the aggregate or (ii) two or more final, nonappealable judgments or orders for the payment of money in excess of \$20,000,000 in the aggregate, in either case which shall be rendered against the Commonwealth with respect to which, in the opinion of the Bank, adequate cash reserves have not been established, and such judgment or order shall continue unsatisfied and unstayed for a period of thirty (30) days.

SECTION 7.2. Remedies. (a) Upon the occurrence of an Event of Default under Section 7.1(a)(i), 7.1(e)(i), 7.1(g)(i), 7.1(h), 7.1(i)(ii) or 7.1(j) (each an "*Immediate Termination Event*"), the Available Commitment shall immediately be reduced to zero, in which case the obligations of the Bank under this Agreement shall immediately terminate and expire without the requirement of notice by the Bank. After such termination or expiration, the Bank shall deliver, within two (2) Business Days, to the Commonwealth, the Tender Agent and the Remarketing Agent written notice of such termination or expiration; *provided, however*, that failure to provide such written notice shall have no effect on the validity or enforceability of such termination or expiration.

(b) Upon the occurrence of an Event of Default under Section 7.1(g)(ii) hereof, the obligations of the Bank hereunder shall be suspended from the time of the occurrence of such Event of Default, and in the event any material provision of this Agreement or of any other Related Documents is declared to be null and void, or it is determined that the Commonwealth has no liability under this Agreement or any of the other Related Documents, in either case by a court or other governmental agency or authority with competent jurisdiction, then the obligations of the Bank under this Agreement will terminate in accordance with Section 7.2(a) hereof; *provided, however*, that if such provisions are upheld in their entirety, then the Bank's obligations under this Agreement shall be automatically reinstated and the terms of this Agreement will continue in full force and effect (unless this Agreement shall have otherwise expired or been terminated in accordance with its terms) as if there had been no such suspension. If the Event of Default which gave rise to the suspension of the obligations of the Bank hereunder has not been cured or does not cease to exist prior to the three (3) year anniversary of such occurrence, the obligations of the Bank hereunder shall be terminated upon written notice from the Bank to the Commonwealth and, thereafter, the Bank shall have no further obligations hereunder.

(c) Upon the occurrence of a Default described in Section 7.1(h) hereof, the obligation of the Bank to purchase Bonds under this Agreement shall be immediately suspended until the proceeding referred to therein is terminated prior to the court entering an order granting the relief sought in such proceeding. In the event such proceeding is terminated, the obligations of the Bank to purchase Bonds hereunder shall be reinstated and the terms of this Agreement will continue in full force and effect (unless the obligations of the Bank to purchase Bonds hereunder shall have otherwise terminated in accordance with the terms hereof) as if there had been no such suspension.

(d) Upon the occurrence of any Event of Default, the Bank shall have all other remedies provided at law or equity, including, without limitation, specific performance; and in addition, the Bank may do one or more of the following: (i) deliver to the Commonwealth and the Tender Agent written notice that an Event of Default has occurred under this Agreement (a

"*Notice of Termination*"), whereupon the remarketing of Bonds shall cease immediately and, at the close of business on the 30th day following the date such Notice of Termination is received by the Tender Agent, the Available Commitment shall be reduced to zero and the obligations of the Bank under this Agreement shall terminate; *provided, however*, that prior to such termination, the Bank shall remain obligated to purchase Eligible Bonds in accordance with the terms hereof so long as no Immediate Termination Event or no Suspension Event has occurred; (ii) exercise any right or remedy available to it under any other provision of this Agreement; or (iii) exercise any other rights or remedies available under any Related Document, any other agreement or at law or in equity; *provided further, however*, that the Bank shall not have the right to terminate their obligation to purchase Bonds except as expressly provided in this Section 7.2. Upon the occurrence and during the continuance of any Event of Default, all obligations hereunder shall bear interest at the Default Rate.

ARTICLE VIII

LIABILITY OF THE BANK

SECTION 8.1. *Liability of the Bank.* As between the Bank and the Commonwealth, the Commonwealth assumes all risks of the acts or omissions of the Tender Agent with respect to the use of any money made available by the Bank in accordance with this Agreement. Neither the Bank nor any of its respective officers or directors shall be liable or responsible for: (a) the use which may be made of any money made available by the Bank in accordance with this Agreement or for any acts or omissions of the Tender Agent in connection therewith; (b) the validity, enforceability, sufficiency, or genuineness of any Related Document or other document, or of any endorsement(s) thereon, even if any such document should in fact prove to be in any or all respects invalid, insufficient, fraudulent, or forged; (c) payment by the Bank against presentation of documents which do not strictly comply with the terms of this Agreement; (d) any amendment or waiver of or any consent to departure from all or any of the Bonds or other Related Documents; (e) the existence of any claim, set-off, defense or other right that the Commonwealth may have at any time against the Bank, the Remarketing Agent, the Tender Agent or any other Person, whether in connection with this Agreement, the transactions contemplated herein or in any of the Related Documents, or any unrelated transaction; or (f) any other circumstances whatsoever in making or failing to make payment under this Agreement, except only that the Commonwealth shall have a claim against the Bank, and the Bank shall be liable to the Commonwealth, to the extent, but only to the extent, of any direct, as opposed to consequential or punitive, damages suffered by the Commonwealth which the Commonwealth proves were caused by (i) the Bank's gross negligence or willful misconduct in determining whether documents presented under this Agreement strictly comply with the terms of this Agreement, or (ii) the Bank's willful failure to pay under this Agreement after the presentation to it by an authorized representative of the Tender Agent of documents strictly complying with the terms and conditions of this Agreement. In furtherance and not in limitation of the foregoing, the Bank may accept documents that appear on their face to be in order without responsibility for further investigation unless the Bank has received actual notice or information to the contrary.

ARTICLE IX

MISCELLANEOUS

SECTION 9.1. Notices. All notices, requests and other communications to any party hereunder shall be in writing (including bank wire, telex, telecopy or similar writing) and shall be given to such party at its address, telecopy or telephone number set forth on Exhibit D attached hereto and incorporated herein by this reference, or at such other address, telecopy or telephone number as such party may hereafter specify for the purpose of notice to such other party. Each such notice, request or other communication shall be effective:

(a) if given by telecopy, when each telecopy is transmitted to the telecopy number specified on Exhibit D and the appropriate acknowledgment of receipt is received,

(b) if given by mail, 72 hours after such communication is deposited in the mails with first class postage prepaid, addressed as aforesaid or

(c) if given by any other means, when delivered at the address specified in Exhibit D; *provided*, that (i) notices to the Commonwealth under Section 2.6 and to the Bank under Sections 2.2, 2.4 and 4.2 hereof shall not be effective until received, (ii) notices to the Remarketing Agent, the Tender Agent and the Commonwealth under Section 2.4 hereof may also be delivered by hand or given by telephone (confirmed by telecopy) and confirmed in writing, and (iii) notices to the Commonwealth, the Remarketing Agent and the Tender Agent shall not be given by telecopy alone.

SECTION 9.2. No Waivers.

(a) The obligations of the Commonwealth hereunder shall not in any way be modified or limited by reference to any other document, instrument or agreement (including, without limitation, the Related Documents) except as otherwise expressly provided herein.

(b) No failure or delay by the Bank in exercising any right, power or privilege hereunder, under the Related Documents or under the Bonds and no course of dealing between the Commonwealth and the Bank shall operate as a waiver hereof or thereof nor shall any single or partial exercise hereof or thereof preclude any other or further exercise hereof or thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies which the Bank would otherwise have.

SECTION 9.3. Amendments and Waivers.

(a) No provision of this Agreement or any Bank Bond may be amended, modified, discharged or waived unless such amendment or waiver is in writing and is signed by the Commonwealth and the Bank.

(b) The Commonwealth shall provide notice to any Rating Agency of any amendment to this Agreement.

SECTION 9.4. Successors and Assigns.

(a) The provisions of this Agreement shall be binding upon and shall inure to the benefit of the Commonwealth and the Bank and their respective successors and assigns, except that the Commonwealth may not assign or otherwise transfer any of its rights or obligations under this Agreement without the prior written consent of the Bank.

(b) The Bank may at any time grant to one or more banks or other institutions (each a "*Participant*") participating interests in the Available Commitment or any or all of its Bank Bonds. In the event of any such grant by the Bank of a participating interest to a Participant, whether or not notice is given to the Commonwealth, the Bank shall remain responsible for the performance of its obligations hereunder, and the Commonwealth shall continue to deal solely and directly with the Bank in connection with the Bank's rights and obligations under this Agreement. The Commonwealth agrees that each Participant shall, to the extent provided in its participation agreement and subsection (d) below, be entitled to the benefits of Sections 3.2, 3.3, 3.4 and 3.6 hereof with respect to its participating interest.

(c) The Bank may at any time assign all or any portion of its rights under this Agreement and any Bank Bonds to a Federal Reserve Bank. No such assignment shall release the Bank from its obligations hereunder.

(d) No Participant or other transferee of the Bank's rights shall be entitled to receive any greater payment under Sections 3.2, 3.3, 3.4 and 3.6 hereof than the Bank would have been entitled to receive with respect to the rights transferred unless such transfer is made with the Commonwealth's prior written consent.

SECTION 9.5. *Term of this Agreement.* The obligation of the Bank to purchase Bonds shall terminate on the last day of the Commitment Period. This Agreement shall terminate when the Available Commitment shall have expired, no Bank Bonds remain outstanding and all other Obligations payable to the Bank pursuant to this Agreement have been paid in full.

SECTION 9.6. *Choice of Law; Waiver of Trial by Jury.* THIS AGREEMENT SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF NEW YORK; *PROVIDED, HOWEVER,* THAT THE OBLIGATIONS OF THE COMMONWEALTH SHALL BE GOVERNED BY THE LAWS OF THE COMMONWEALTH OF MASSACHUSETTS.

TO THE FULLEST EXTENT PERMITTED BY LAW, THE COMMONWEALTH AND THE BANK HEREBY WAIVE TRIAL BY JURY IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OF THE RELATED DOCUMENTS. THE COMMONWEALTH FURTHER AGREES THAT, IN THE EVENT OF LITIGATION, IT WILL NOT PERSONALLY OR THROUGH ITS AGENTS OR ATTORNEYS SEEK TO REPUDIATE THE VALIDITY OF THIS SECTION 9.6, AND IT ACKNOWLEDGES THAT IT FREELY AND VOLUNTARILY ENTERED INTO THIS AGREEMENT TO WAIVE TRIAL BY JURY IN ORDER TO INDUCE THE BANK TO ENTER INTO THIS AGREEMENT.

SECTION 9.7. Counterparts. This Agreement may be signed in counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument.

SECTION 9.8. Beneficiaries. Except as provided below, this Agreement is made solely for the benefit of the Commonwealth and the Bank, their successors and assigns, and no other Person (including, without limitation, any Owners) shall have any right, benefit or interest under or because of the existence of this Agreement.

SECTION 9.9. Headings Descriptive. The headings of the several sections and subsections of this Agreement are inserted for convenience only and shall not in any way affect the meaning or construction of any provision of this Agreement.

SECTION 9.10. Survival. All indemnities set forth herein shall survive the execution and delivery of this Agreement, the Bonds and the Related Documents, the payment of the Bonds and the termination of the Available Commitment.

SECTION 9.11. Tender Agent. The performance of the duties of the Tender Agent hereunder is subject to certain terms and standards set forth in the Tender Agent Agreement.

SECTION 9.12. Severability. If any provision of this Agreement shall be held or deemed to be or shall in fact be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever.


SECTION 9.13. Interest Limitation. In no event shall the rate or amount of interest charged, collected, taken or received hereunder exceed any maximum rate or amount imposed by law.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed by their duly authorized officers, all as of the date first above written.

THE COMMONWEALTH OF MASSACHUSETTS

By  _____

Its Treasurer and Receiver-General


acting through its New York Branch

By _____

Title _____

By _____

Title _____

SCHEDULE I

The "Commitment Fee" for any date shall be determined by reference to the Commonwealth Rating for such date. A Rating Downgrade of the Commonwealth Rating on the Bonds or any unenhanced, long term general obligation debt of the Commonwealth will result in an increase in the Commitment Fee equal to [REDACTED] per annum from and commencing on the date that a Rating Agency shall have publicly announced said Rating Downgrade. If any Rating Agency shall withdraw or suspend its rating of the Bonds or any unenhanced, long term general obligation debt of the Commonwealth for a credit related reason, then the Commitment Fee shall increase automatically and immediately by [REDACTED] per annum above the Commitment Fee in effect immediately prior to such withdrawal or suspension, and shall remain in effect for so long as such withdrawal or suspension remains in effect. In addition to the foregoing, the Commitment Fee shall be increased by an additional [REDACTED] per annum from and commencing on the date an Event of Default hereunder shall have occurred and be continuing, whether or not said Event of Default has resulted in the submission of a Notice of Bank Purchase under this Agreement. The Commitment Fee will be reduced by the amounts described in the foregoing provisions on such date that the Rating Agency in question shall have publicly announced the reinstatement of the Commonwealth Rating to that level which was applicable thereto prior to such Rating Downgrade, suspension or withdrawal or said Event of Default shall have been cured to the satisfaction of the Bank, and the obligations of the Bank under this Agreement shall not have otherwise terminated as a result thereof.

EXHIBIT A

NOTICE OF BANK PURCHASE
(Liquidity Purchase)

[REDACTED]
acting through its New York Branch,
[REDACTED]

Attention: [REDACTED]

Re: Standby Bond Purchase Agreement dated as of December 23, 2002
between [REDACTED] acting through its New York Branch,
and The Commonwealth of Massachusetts

The undersigned, a duly authorized signatory of _____, as Tender Agent (the "*Tender Agent*"), hereby certifies to [REDACTED] acting through its New York Branch (the "*Bank*"), in accordance with the Standby Bond Purchase Agreement (the "*Standby Bond Purchase Agreement*"), dated as of December 23, 2002, between The Commonwealth of Massachusetts and the Bank (all capitalized terms herein having the meanings ascribed thereto in the Standby Bond Purchase Agreement), that:

- (i) Notice of tender of Eligible Bonds for purchase pursuant to the optional tender provisions of the Bonds has been received.
- (ii) Insufficient moneys in the possession of the Tender Agent pursuant to the Tender Agent Agreement are available for such purchase.
- (iii) The total principal amount of the Eligible Bonds for which there is not sufficient moneys referred to above is \$_____.
- (iv) Accrued, but unpaid, interest on such Bonds, computed in accordance with the terms of the Bonds and the Tender Agent Agreement, as of the date of delivery hereof to the Bank, is \$_____.¹
- (v) The Bonds referred to above are hereby tendered to the Bank for purchase pursuant to the Standby Bond Purchase Agreement on the date hereof for

¹ To be used only if the Bonds are to be purchased on a date other than an Interest Payment Date that would have occurred without regard to the Purchase Date.

an aggregate purchase price of \$_____.²

- (vi) Upon completion of purchase, the Tender Agent will hold the Bonds for the Bank in accordance with the requirements of the Tender Agent Agreement.
- (vii) The Bonds for which notice of tender of Bonds for purchase has been received bear interest at the [Weekly Rate] [Daily Rate].³
- (viii) The Purchase Date is _____, ____.
- (ix) Payment of the amount set forth in paragraph (5) hereof should be made to the Tender Agent in accordance with the following wire instructions:

Bank: _____

Address: _____

ABA#: _____

Account name or reference: _____

- (x) The Tender Agent has prepared, executed and delivered this certificate and, to the best of its knowledge, no Immediate Termination Event or Suspension Event has occurred or is continuing as of the date of this Notice.

IN WITNESS WHEREOF, the Tender Agent has executed and delivered this Certificate as of the ____ day of _____, ____.

as Tender Agent

By: _____
Name: _____
Title: _____

² Insert the sum of principal and accrued interest shown in paragraphs 3 and 4.

³ Delete as applicable.

EXHIBIT B

NOTICE OF BANK PURCHASE
(Mandatory Purchase)

Attention: [REDACTED]

Re: Standby Bond Purchase Agreement dated as of December 23, 2002
Between [REDACTED] acting through its New York Branch,
and The Commonwealth of Massachusetts

The undersigned, a duly authorized signatory of [REDACTED], as Tender Agent (the "*Tender Agent*"), hereby certifies to [REDACTED] acting through its New York Branch (the "*Bank*"), in accordance with the Standby Bond Purchase Agreement (the "*Standby Bond Purchase Agreement*") dated as of December 23, 2002 between The Commonwealth of Massachusetts and the Bank (all capitalized terms herein having the meanings ascribed thereto in the Standby Bond Purchase Agreement), that:

- (i) Eligible Bonds have been tendered or deemed tendered for mandatory purchase pursuant to the terms of the Bonds.
- (ii) Insufficient moneys in the possession of the Tender Agent pursuant to the Tender Agent Agreement are available for such purchase.
- (iii) The total principal amount of the Eligible Bonds referred to above is \$ _____.
- (iv) Accrued, but unpaid, interest on such Bonds, computed in accordance with the terms of the Bonds and the Tender Agent Agreement, as of the date of delivery hereof to the Bank is \$ _____.¹
- (v) The Bonds referred to above are being delivered to the Bank for purchase pursuant to the Standby Bond Purchase Agreement on the date hereof for an aggregate purchase price of \$ _____.²

¹ To be used only if the Bonds are to be purchased on a date other than an Interest Payment Date.

² Insert the sum of principal and accrued interest shown in paragraphs 3 and 4.

(vi) Upon completion of purchase, the Tender Agent shall hold the Bonds for the Bank in accordance with the requirements of the Tender Agent Agreement and the Standby Bond Purchase Agreement.

(vii) The Purchase Date is _____, ____.

(viii) Payment of the amount set forth in paragraph (v) hereof should be made to the Tender Agent in accordance with the following wire instructions:

Bank: _____

Address: _____

ABA#: _____

Account name or reference: _____

(ix) The Tender Agent has prepared, executed and delivered this certificate and, to the best of its knowledge, no Immediate Termination Event or Suspension Event has occurred or is continuing as of the date of this Notice.

IN WITNESS WHEREOF, the Tender Agent has executed and delivered this Certificate as of the ____ day of _____, ____.

as Tender Agent

By: _____
Name: _____
Title: _____

EXHIBIT C

FORM OF REQUEST FOR EXTENSION OF EXPIRATION DATE

[Date]

[REDACTED]
acting through its New York Branch,

[REDACTED]s

Attention: [REDACTED]

Re: Request for Extension of Expiration Date

Ladies and Gentlemen:

Reference is hereby made to that certain Standby Bond Purchase Agreement (the "*Agreement*"), dated as of December 23, 2002, between [REDACTED] acting through its New York Branch (the "*Bank*"), and The Commonwealth of Massachusetts (the "*Commonwealth*"). All capitalized terms contained herein which are not specifically defined shall be deemed to have the definition set forth in the Agreement. In accordance with Section 2.6 of the Agreement, the Commonwealth hereby requests an extension of the Expiration Date for an additional commitment period. The current Expiration Date is _____ (or, if such day is not a Business Day, then the next preceding Business Day), and the Commonwealth hereby requests that (1) your agreement to an extension of the Expiration Date be to a date which is not sooner than (____) days after the date of your written approval endorsed below and (2) your decision to accept or decline such an extension be communicated in writing to _____, with a copy delivered to the Tender Agent and the Remarketing Agent(s), as soon as possible but in no event later than _____ (____) days following your receipt of this extension request. We understand that if you fail to respond on or prior to such thirtieth (30th) day, you shall be deemed to have rejected such request.

From the Extension Effective Date to and including _____¹ (the "*Commitment Fee Change Date*"), the Commitment Fee shall accrue at the rate of _____

¹ Insert date upon which current pricing ends.

percent (____%)² per annum on the Available Commitment payable in accordance with the terms of Section 3.1 of the Agreement. From the Commitment Fee Change Date to and including _____, _____³ the Commitment Fee shall accrue at the rate of _____ percent (____%) per annum payable in accordance with the terms of Section 3.1 of the Agreement.

Pursuant to Section 2.6 of the Agreement, we have enclosed along with this request the following information:

1. The outstanding principal amount of the Bonds,
2. The nature of any and all Defaults or Events of Default, if any, occurring under the Agreement and the Related Documents; and
3. Any other pertinent information previously requested by the Bank.

Your executed return of this Request for Extension of Expiration Date, with a copy to the Tender Agent and the Remarketing Agent(s), will constitute a binding agreement in accordance with the terms of the Agreement.

Very truly yours,

THE COMMONWEALTH OF MASSACHUSETTS

By: _____
Its: _____

² Insert current Commitment Fee.

³ Insert date which is _____ (____) days/years following the Commitment Fee Change Date.

The undersigned agrees that the Expiration
Date is hereby extended to _____, ____

Dated this ____ day of _____, ____.



acting through its New York Branch

By: _____
Title:

By: _____
Title:

EXHIBIT D

ADDRESSES FOR NOTICES AND PAYMENTS

Commonwealth:

Commonwealth of Massachusetts
One Ashburton Place, 12th Floor
Boston, Massachusetts 02108

Attn: [REDACTED]
Tel: (617) 367-3900, ext. 564
Fax: (617) 227-1773

Bank:

Address for Notices:

[REDACTED]
[REDACTED]
[REDACTED]
Attn: [REDACTED]
Tel: [REDACTED]
Fax: [REDACTED]

Wire Instructions:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Tender Agent:

State Street Bank and Trust Company
2 Avenue de Lafayette
Boston, Massachusetts 02111
Attn: Christina Mullen
Tel: (617) 662-1807
Fax: (617) 662-1463

Remarketing Agent:

USBPaineWebber Incorporated
1285 Avenue of the Americas
New York, NY 10019
Attn: Municipal Short-Term Underwriting